

Abstract/ Financial derivatives

The purpose of this thesis is to provide an introduction to financial derivatives which has been, from the legal perspective, described in a not satisfactory manner as quite little literature that can be found about this topic. The main objectives of this thesis are to define the term “financial derivatives” and its particular types and to analyse legal nature of these financial instruments. The last objective is to try to draft future law regulation of financial derivatives and to determine the guidelines that future legislation will follow.

The thesis is divided into four chapters; a short introduction is followed by a chapter concerning the origin of financial derivatives. In this chapter we learn that financial derivatives originate from commodity derivatives, which have their origins in a period ages before Christ.

The second chapter is firstly concerned with determination of the term “derivative” and it further states the main reasons for which derivatives agreement are concluded. The reasons are hedging, speculation and arbitrage. Afterwards, four well-known types of derivatives, i.e. options, futures, forwards and swaps are defined in this chapter.

The third chapter, named “Financial derivatives legislation”, is dedicated to definition of current legislation of financial derivatives. At first, this chapter deals with enactments that represent main sources of regulation of financial derivatives and with the distinct approaches to these financial instruments in these enactments. An important part of the third chapter is a part concerned with derivative agreements and their law nature, as three different opinions about the nature of these agreements are described here. The end of this chapter is dedicated to the market with financial derivatives. With regards to a fact that there is a wide range of issues that can be written about this market, this part was restricted to fundamental facts and particularly to the financial derivatives markets legislation which is currently being introduced by the European Union.

The last fourth chapter is focused on what the financial derivatives legislation should be. Proposals of such legislation are based on the third chapter, including deficiencies of current legislation mentioned there. The second part of this chapter is

focused on how financial derivatives legislation on the EU level, which is currently being introduced by the EU, should look.